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975 5th Avenue Northwest, Issaquah, Washington 98027
Tel: (425) 295-0800 Fax: (425) 295-0850
www.farallonconsulting.com

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September 23, 2010

Ms. Christy Brown
Project Coordinator
Office of Air, Waste and Toxics
United States Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

RECEIVED
SEP 27 2010
Office of Air Waste & Toxics

**RE: RESPONSE TO REQUEST FOR EXTENSION – SUBMITTAL OF SECOND
DRAFT ENGINEERING EVALUATION/COST ANALYSIS
JORGENSEN FORGE FACILITY
SEATTLE, WASHINGTON
ADMINISTRATIVE ORDER ON CONSENT, U.S. EPA DOCKET NO.
CERCLA 10-2003-0111**

Dear Ms. Brown:

Farallon Consulting, L.L.C. (Farallon) and Anchor QEA, L.L.C. (Anchor QEA) have prepared this letter on behalf of Earle M. Jorgensen Company (EMJ) and Jorgensen Forge Corporation (Jorgensen) in response to the letter regarding *Request for Extension – Submittal of Second Draft Engineering Evaluation/Cost Analysis; Jorgensen Forge Facility*, Seattle, Washington dated September 15, 2010 from the U.S. Environmental Protection Agency (EPA). EMJ and Jorgensen appreciate that EPA has extended the submittal date for the Second Draft Engineering Evaluation/Cost Analysis (EE/CA) for the Jorgensen Forge Facility located in Seattle, Washington (herein referred to as the Site) until October 12, 2010. However, for the reasons described below, there is insufficient time between now and October 12, 2010 to complete the Second Draft EE/CA in accordance with the requirements of the Administrative Order on Consent, U.S. EPA Docket No. CERCLA 10-2003-0111 (AOC). Therefore, EMJ/Jorgensen request that the submittal date for the Second Draft EE/CA be extended to November 15, 2010. Although there are a number of challenges presented by the goal of in-water construction by the late 2012 construction window, an extension to November 15, 2010 for submittal of the Second Draft EE/CA would not materially affect EMJ/Jorgensen's ability to meet that schedule.

At the July 21, 2010 meeting, EPA agreed that 8 weeks would be necessary to complete the Second Draft EE/CA to allow sufficient time for review by senior management of both EMJ and Jorgensen, and provided an 8-week extension to September 20, 2010. Farallon and Anchor QEA were unable to proceed with the preparation of the Second Draft EE/CA following the July 21, 2010 meeting until the U.S. Army Corps of Engineers (USACE) resolved the top of cap elevation in the 10-foot buffer zone, and until proposed remedial alternatives for sediment cleanup in the Duwamish Sediment Other Area (DSOA) were coordinated with The Boeing Company (Boeing), as discussed below. EPA did not provide sufficient resolution on these issues until September 13, 2010. As recently communicated to EPA, because Farallon and



Anchor QEA still require 8 weeks to prepare the Second Draft EE/CA, EMJ/Jorgensen request an extension of the submittal date for the Second Draft EE/CA to November 15, 2010.

The First Draft EE/CA was submitted to EPA in March 2009. Comments were not received from EPA until May 6, 2010, approximately 14 months after submittal of the First Draft EE/CA. Following receipt of EPA comments, Farallon and Anchor QEA met with EPA and the USACE on May 26, 2010 to discuss EPA's April 30, 2010, letter regarding Comments on Draft Engineering Evaluation/Cost Analysis (EE/CA), March 2009, Comprehensive Environmental Response, Compensation, and Liability Act, Administrative Order on Consent, U.S. EPA Docket No. CERCLA 10-2003-011 (EPA Comments). The purpose of the May 26, 2010 meeting was to clarify a number of the substantive EPA comments and determine the most efficient and effective approach to revising the First Draft EE/CA. All parties agreed at the May 26, 2010 meeting that the most efficient path forward for submittal of the Second Draft EE/CA was for Farallon and Anchor QEA to develop revised remedial alternatives consistent with the EPA clarifications and to hold another meeting with EPA to present the revised alternatives.

Farallon and Anchor QEA met with EPA on July 21, 2010 to present the four revised remedial alternatives proposed for inclusion in the Second Draft EE/CA. Farallon and Anchor QEA confirmed the USACE request that the top elevation of any cap material located 3 to 5 feet below the authorized navigational channel elevation plus 2-foot overdredge tolerance (i.e., -20 to -22 feet mean lower low water [MLLW] elevation) is restricted to the navigation channel and does not extend into the 10-foot offset buffer directly adjacent to the navigational channel. Within the 10-foot offset buffer, EPA and the USACE clearly stated at the July 21, 2010 meeting that the proposed remedial alternatives must account for potential future navigational dredging to -17 feet MLLW (i.e., the top of cap elevation is at or below this elevation) and resulting stable side slopes up-gradient of this elevation.

During the July 21, 2010 meeting, EPA reiterated that the Second Draft EE/CA is to detail the integration of the remedial alternatives with the immediately adjacent sediment remedy to be conducted concurrently by Boeing in the DSOA, and that the Boeing DSOA design document and the EMJ/Jorgensen Second Draft EE/CA were to be submitted for public review and comment concurrently and maintained on the same schedule. The EPA requirements were consistent with the Memorandum of Understanding (MOU) between EMJ/Jorgensen and Boeing dated August 2007, which was incorporated via reference in the First Amendment to the AOC. Jorgensen, EMJ, and Boeing have had bi-weekly coordination conference calls and meetings since 2008 to discuss the proposed design for the sediment cleanup in the DSOA, source control, and schedule. Boeing indicated during the coordination meeting immediately prior to the July 21, 2010 meeting with EPA that they were continuing to negotiate the proposed DSOA remedial alternatives with EPA and could not provide sufficient detail for integration with the Second Draft EE/CA.

It was at that July 21, 2010 meeting with EPA that Farallon and Anchor QEA confirmed that preparation of the Second Draft EE/CA would require 8 weeks to complete pending finalization of the proposed Boeing DSOA sediment remedial alternatives. In a letter from EPA dated July



21, 2010, EPA approved an 8-week extension of the submittal date of the Second Draft EE/CA to September 20, 2010.

However, approximately 10 days following receipt of the extension letter, a letter regarding *Duwamish River – Dredging Buffer Zone Needs in the Federal Navigation Channel* dated August 3, 2010 from the USACE (USACE Letter) was forwarded by EPA to Farallon and Anchor QEA. In contrast to the information received from the EPA and USACE during the July 21, 2010 meeting, the USACE Letter stated that -19 feet MLLW is the requested top of cap elevation within the 10-foot offset buffer directly adjacent to the navigational channel. The change in top of cap elevation from -17 feet MLLW to -19 feet MLLW within the offset buffer would have a significant impact on the remedial alternatives to be presented in the Second Draft EE/CA; therefore, prior to proceeding with the preparation of the Second Draft EE/CA, Farallon and Anchor QEA immediately requested confirmation from EPA that the information provided in the July 21, 2010 meeting requesting use of -17 feet MLLW still applied. EPA did not respond until August 30, 2010 with sufficient information to allow completion of the proposed remedial alternatives in the Second Draft EE/CA.

Following receipt of the July 21, 2010 extension letter, Boeing continued to negotiate the proposed DSOA remedial alternatives with EPA. Boeing stated that there was not sufficient information from EPA to integrate Boeing's proposed DSOA alternatives into the Second Draft EE/CA. To meet EPA's stated objective to have a joint public review process for the Boeing DSOA and the EE/CA alternative selection, EMJ/Jorgensen contacted EPA between August 31 and September 9, 2010 to request an extension of the Second Draft EE/CA submittal date contingent upon receipt of design drawings from Boeing that EPA would agree were appropriate for public comment. EPA responded on September 13, 2010 that Boeing intended to enter Dispute Resolution with EPA and that EPA was concerned that this continued delay may impact EMJ/Jorgensen's ability to implement the EE/CA remedy during the 2012 in-water construction window anticipated by EPA. Therefore, contrary to the MOU and previous written and verbal communication from EPA, EPA determined that the cleanup actions to be conducted by EMJ/Jorgensen and Boeing would be decoupled at this stage in the EE/CA development and re-coupled in the future, following completion of Boeing's Dispute Resolution and during design of the EPA-approved EE/CA remedy. This decision allowed EMJ/Jorgensen to proceed with preparation of the Second Draft EE/CA.

The extension of the submittal date of the Second Draft EE/CA will affect future coordination of the EE/CA with Boeing activities. Farallon and Anchor QEA recommend that as EPA moves toward agreement with Boeing regarding cleanup alternatives, meetings be held between EMJ/Jorgensen, Boeing, and EPA to coordinate key elements of the pre-remedy selection process and the integrated schedule. Meanwhile, Jorgensen/EMJ will proceed to complete the Second Draft EE/CA consistent with comments provided by EPA.

EMJ/Jorgensen are committed to providing a high-quality EE/CA that meets the requirements of the AOC, which requires sufficient time to fully evaluate the remedial alternatives, develop a thorough and complete technical evaluation, and provide for review by senior management at both EMJ and Jorgensen. Given these demands and the very recent resolution of issues critical



September 23, 2010

Page 4

to the EE/CA's preparation, we believe the requested one-month extension is reasonable, particularly as this extension will not materially affect EMJ/Jorgensen's ability to meet the 2012 in-water construction goal set by EPA.

Farallon and Anchor QEA trust that this provides sufficient information for your consideration of our request. Feel free to contact either of the undersigned at (425) 295-0800 if you have any questions or would like to discuss this issue further. We look forward to your prompt response on this request for an extension.

Sincerely,

Farallon Consulting, L.L.C.

Amy Essig Desai
Senior Scientist

Peter Jewett L.G., L.E.G.
Principal

cc: Glen St. Amant, Muckleshoot Tribe
Allison O'Sullivan, Suquamish Tribe
Marla Steinhoff, NOAA
John Keeling, Ecology – NWRO
Brad Helland, Ecology – NWRO
Thea Levkovitz, DRCC
John S. Wakeman, USACE
Mr. Gil Leon, Earle M. Jorgensen Company
Mr. Ron Altier, Jorgensen Forge Corporation
Mr. Wayne Desberg, Jorgensen Forge Corporation
Mr. William Joyce, Salter Joyce Ziker, P.L.L.C.
Mr. Josh Lipsky, Cascadia Law, P.L.L.C.
Mr. Ryan Barth, Anchor QEA, L.L.C.
Mr. David Tempelton, Anchor QEA, L.L.C.

AED/PJ:bjj